

§ 250.96

(b) The State IV-A agency is responsible for guaranteeing child care for Tribal JOBS participants according to the provisions specified under part 255.

(c) If the Tribe or organization is using child care funds or services provided by the State pursuant to paragraph (b) of this section, it must ensure, based on a method which is mutually acceptable to the State IV-A agency and Tribal grantee, that necessary child care is available when requiring an individual to participate in its program.

(d) If the Tribe or organization does not choose to use State funds or services for child care, it must provide (without additional title IV-A funding for child care) these funds or services in order to guarantee necessary child care when requiring an individual to participate.

(e) Once the State has implemented its JOBS program, the Tribe or organization, in order to require an individual to participate, must guarantee necessary child care either through the State IV-A agency, pursuant to paragraphs (b) and (c), or directly, pursuant to paragraph (d) of this section; but it may not operate an entirely voluntary JOBS program.

§ 250.96 Waiver authority.

The Secretary may waive any JOBS requirements set forth under section 402(a)(19) and part F of the Act that he determines inappropriate for Tribal JOBS programs.

(a) The Secretary has determined that certain requirements of the Act are inappropriate for JOBS programs operated by Indian Tribes or Alaska Native organizations. They cover the following provisions or sections of the regulations:

(1) Section 250.10 (IV-A agency administration);

(2) Section 250.11 (Statewide requirement);

(3) Section 250.12 (Coordination and consultation);

(4) Section 250.20 (State plan requirements);

(5) Section 250.21 (State plan content);

(6) Section 250.33 (UP-16 hour rule);

(7) Section 250.45 (Optional components);

45 CFR Ch. II (10-1-97 Edition)

(8) Section 250.70 (a) and (b) (Allocation entitlement);

(9) Section 250.71 (b)(2) and (c) (Allotment);

(10) Section 250.72 (Maintenance of effort);

(11) Section 250.73 (Matching rates);

(12) Section 250.74 (Reduced matching rate);

(13) Section 250.78 (Definition of Participation for Enhanced FFP);

(14) Section 250.80 (Uniform Data Collection Requirements);

(15) Section 250.81 (State data systems);

(16) Section 250.82 (Required case record data);

(17) Section 255.1 (c) and (h) (Supportive Services plan requirements).

(b) A Tribe or organization may request that the Secretary waive any other requirements of section 402(a)(19) or part F of the Act not listed under paragraph (a) of this section with proper justification. The Secretary will consider the appropriateness of such waivers on a case-by-case basis.

§ 250.97 Application requirements and documentation.

(a) As a condition of participation in the JOBS program, the designated Tribal agency or department responsible for administering the JOBS program must:

(1) No later than October 1, 1990, establish and operate a JOBS program under a JOBS application that has been approved by the Secretary before implementation and meets the requirements of parts 250 and 255.

(2) Submit final documentation for the application to the Secretary for review and action at least 45 days prior to the anticipated implementation date. The Tribal grantee may not begin its JOBS program prior to the Secretary's approval pursuant to § 250.94(c).

(b) The Tribal application must be submitted to the State IV-A agency for review and comment at least 30 days prior to submittal to the Secretary. The application shall be made available to Tribal members for review and comment at least 30 days prior to submittal to the Secretary. Comments received shall be resolved by the Tribe or organization.

(c)(1) The Tribal grantee must submit an update of its JOBS application to the Secretary for approval at least every two years. The update shall be considered a new JOBS application and shall be submitted to the Secretary for approval at least 90 days prior to the beginning of the next biennial period. The Tribal grantee must follow the public review and comment provisions in paragraph (b).

(2) The update must consist of:

(i) Assurances regarding those parts of the Tribal JOBS application that remain unchanged;

(ii) A description of any changes in program operations including but not limited to changes in component activities; and

(iii) An estimate of the number of persons to be served by the program during the next biennium.

(3)(i) For all Tribal grantees the first biennial update must be submitted by July 1, 1992, for the period beginning October 1, 1992.

(ii) Each approved biennial update shall remain in force until formal action is taken (i.e. approval or disapproval) by the Secretary on the update for the following biennial period.

(d) The Tribal grantee shall submit proposed amendments to the approved application as necessary, and they shall be reviewed according to the process described at §§201.3(f) and 201.3(g).

(e) A Tribe or organization that submits an application, an amendment to an existing application, or a biennial update to its application that is not approvable will be given the opportunity to make revisions before formal disapproval; upon formal disapproval, a Tribe or organization may request a hearing pursuant to the process set forth in §201.4 and part 213.

(f) A Tribal applicant must submit documentation (which is in addition to the information requested in the application) covering the following items for the Secretary's review before final approval of the application can be determined:

(1) Assurances that the administering Tribal agency will have in effect a JOBS program which meets the requirements of section 402(a)(19) and part F of the Act, unless waived by the

Secretary, and including cross-references to all appropriate statutory and regulatory requirements that the JOBS program will meet;

(2) A description of the administrative process and methods of delivery for:

(i) Providing program information under §250.40;

(ii) Assessments pursuant to §250.41;

(iii) Agency-participant agreements, if this option is elected;

(iv) Case management system (§250.43), if this option is elected;

(3) A description of the mandatory and elected optional component activities described under §250.94(e) and the methods of delivery;

(4) A description of the selection and assignment criteria that will be used to refer participants to the various services and activities provided under the Tribal JOBS program;

(5) A description of the coordination processes with other programs, including any agreements with the State IV-A agency, Tribal JTPA agency, other employment and training agencies and educational agencies, specifying how these other agencies will track and report to the Tribe or organization on satisfactory participation and use of JOBS funds;

(6) A description of how the administering Tribal agency will determine eligibility for work-related expenses such as clothing or transportation and other supportive services; a listing of the work-related expenses and the supportive services it will provide to its JOBS participants; the methods of delivering these supportive services; and

(7) A description of the conciliation and hearings procedures which meet the due process standards specified in proposed §250.36, including notification to the State IV-A agency of formal decisions that a non-exempt Tribal member has failed to participate.

§250.98 Maintenance of effort for Indian Tribes and Alaska Native organizations.

Tribal programs are not subject to the requirements in §250.72 but are subject to the following requirements:

(a) JOBS funds shall be used only for education, training and employment activities that are in addition to those